THE TRAVANCORE CIVIL COURTS' POWERS (AMENDMENT) BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I beg to move that the Travancore Civil Courts' Powers (Amendment) Bill be continued.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I oppose it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): This motion is made under the proviso to Standing Order 4. It reads thus:—

> "Provided that, if the member in charge of a Bill makes no motion in regard to the same during two complete sessions, the Bill shall lapse, unless the Assembly, on a motion by that member, in any future session of the same assembly, makes a special order for the continuance of the Bill."

Sir, I am bound to explain to the House why this Bill was not proceeded with till now. The Bill was introduced in 1933 and was referred to a Select Committee on 21-11-1933. The Select Committee reported on 15-11-1934. The report of the Select Committee was presented to this House on 24th January 1935, that is immediately after the submission of the report. On that occasion the report was merely presented and no further motion was made. That was not the usual procedure regarding Bills. Ordinarily, when the report is presented, a motion is made that the Bill as reported may be taken into consideration by the House. In this case, it was not done. The reason was this. The Bill was based on certain recommendations of the Law's Delays Commissioner, which recommendations were sought to be implemented by the Bill. These recommendations had also the approval of the High Court. On the strength of all this, the Bill was introduced, and was in the usual course referred to a Select Committee. The Select Committee, as may be seen from their report, practically turned down all the provisions. The Committee upheld only one provision which was not very useful and they deleted all the rest. And thus the very purpose of the Bill was defeated. In these circumstances, the question was what course I should adopt. Even though the Bill was rejected by the Select Committee I might have moved amendments for the consideration of this House. But having regard to the fact that the Bill originated immediately from the High Court, Government had to consult the High Court again. This took time. There was one particular reason why the High Court had to be consulted.

The report of the Select Committee says in paragraph 2:

> "Having regard to the intimate bearing of these provisions on the working of the Courts and the repercussions that these provisions, if accepted, may have on the administration of justice in the State, the Committee issued an invitation under Standing Order No 35 (4) to Mr. Joseph Talath, Chief Justice, requesting the presence of either himself or any of his brother judges at the sittings of the Committee so that the Committee may be in a position to elicit material facts and views touching the proposed provisions, the working of the Courts in these directions at present and the effect of the provisions or any modification

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[Mr. Kayalam Parameswaran Pillai.]

of the provision, if accepted, on the work of the Courts and, in short, to tell the Committee the Judiciary's view on these matters. The Law Member was able, no doubt, to supply the Committee with the Government's views and he represented the Judicial Department's view too, as known to him. But the Committee thought that before they can take the responsibility of recommending the acceptance of the provisions of the Bill, it was their duty to ascertain the view of gentlemen occupying the highest grade in the Judiciary. The Judges of the High Court, however, did not respond to the invitation. The Committee had not, in the circumstances, the benefit of their views".

Thus it will be seen that the Committee felt that the views of the High Court were denied to them. Naturally therefore I felt it to be my duty to place if possible before this House the views of the High Court. On being consulted Mr. Joseph Taliath sent at first a memorandum to Government expressing his views, printed copies of which have been circulated. Subseqeuntly the High Court as a body considered the matter and sent a memorandum which also has been printed and copies circulated to members of the House. The defect which may be said to have operated in respect of the progress of the Bill is thus sought to be rectified by the supply of the considered views of the High Court. It will be seen that the most serious objection raised was in regard to the enhancement of the small cause jurisdiction of Munsiffs. On this the High Court has said they are not very particular in changing the existing provision. Thus the High Court has met the Committee half way in this matter and this will be taken to be a substantial gain by all those who opposed the Bill. They have also agreed that appeals against some decisions of Munsiff's Courts may lie to the High Court. The opponents of the Bill have gained two points at any rate, and the delay has not been fruitless and is therefore excusable. It is reasonable therefore for the House to allow the continuance of the Bill.

PRESIDENT: Moved and seconded under Standing Order 4 that special orders for the continuance of the Bill be given.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I oppose this motion, Sir, and I move that the Bill be recommitted to the Select Committee.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): It is quite open to the member to make this motion but it must come after the Bill is orderd to be continued.

MR. POTTAYIL S. KRISHNA PANICKAR (*Shertala II*): Sir I oppose the motion. In opposing I may say a few words. The Law's Delays Commissioner was appointed by Government by the order of 3rd April 1930 and the Commissioner submitted his report on 30th Tulam 1107 basing his observation on the figures then available. Soon after the report was submitted by the Law's Delays Commissioner both the High Court and the Government examined the proposals contained therein and a Bill was drafted and published in the Government Gazette and was introduced into this House for consideration. The principle underlying the Bill was that some method should be adopted to obviate the delay in disposing of cases, and accepting that principle, the Bill was

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introduced in the Assembly and was referred to a Select Committee. The Select Committee turned down all the proposals contained in the Bill except one, *i. e.*, that the pecuniary jurisdiction of the lower courts should be raised to Rs. 2,500. Sir, most of the proposals contained in the Bill were mentioned in the recommendation of the Law's Delays Commissioner. Those provisions if enacted would only be conducive to reduce the number of cases of appeals which come to the High Court. Sir, after the Select Committee had submitted this report in the year 1934 the conditions then prevailing have altered considerably and were different from the conditions that prevail now. In order to obviate the delay in the disposal of cases in the High Court, Government have appointed two more Judges in the High Court. Sir, as I have already submitted, the statistics collected by the Commissioner were of cases pending during the years from 1100 to 1106. Sir, the reason why such a great number of appeals and suits were pending in the High Court and the courts subordinate thereto was that immediately after the passing of the Nair, Ezhava and Vellala Regulations many suits for partition were filed, most of which have since been disposed of. The other day we passed a Bill which provided that money suits should be referred to Conciliation Boards: not only suits but execution of decrees as well. So it is not at all likely, Sir, that more suits would be coming in hereafter in the various grades of courts in the land. It is not at all likely that there will be a rush in the courts. Sir, to me at any rate it is obvious that for a solution of this problem a little more care should be bestowed on the choice of persons to preside over these courts. Now at any rate it is not the opportune moment for us to consider a Bill which has been turned down by the Select Committee and as such I oppose the motion.

PRESIDENT: It has been moved by the Law Member and duly seconded.

The motion was put to vote and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I beg now to move that the Bill as reported by the Select Committee be taken into consideration.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The House adjourned for lunch at 1 P. M. and met again at 2 P. M., with the President in the chair.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): Sir I rise to move that this Bill be re-committed to the Select Committee, be sent back to that same Committee for a fuller consideration of the various facts and figures. The Law Member explained the unfavourable circumstances under which the Select Committee was obliged to work. I wish to add one fact to what he has stated. The ground on which the Honourable High Court raised their objections was that they did not think it was proper for them to have any share in the actual work of legislation. We find that with regard to the Agricultural Debtors' Bill and also with regard to this Bill, the opinion of the High

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[Sadasya Tilaka T. K. Velu Pillai.]

Court had been asked. They were called upon to express their opinion with regard to these two Bills and the High Court did give their opinion.

The mistake that the High court committed in this case was a fundamental one. The Committee thought that the presence of the learned Chief Justice or one learned Judge of the High Court was necessary because, for a very long time there had been an impression in this House that the Judiciary was not doing their work properly. It was thought that if the right type of men were appointed, the higher Judiciary may do more work. I refer to a sentence or two in the speech of Mr. P. K. Narayana Pillai, a member of this House. He said in August 1933, that the causes which had been dealt with by the Law's Delays Commission seemed to call for further consideration as regards the personnel of the court and the efficiency of the Bar and the bench. He also said that the inspection of the courts was only a routine inspection of the registers preserved in the courts. The Administration Report (Proceedings, dated the 17th Feburary 1933,) records that the "Government are constrained to observe that the work of the Munsiffs has been deteriorating and they look to the High Court to take the necessary action with a view to improve the situtation". It is again recorded that "Government also regret that they were not able to record satisfaction of the work of District and Session Judges." and Mr. Pattom Thanu Pillai asked, "are not the Government convince that the High Court feel that they are not in a position to improve the situation. He observed that Government ought to take action on the report of the the Law's Delays Commissioner and the recommendation of the High Court relating thereto.

Statements like these were made elsewhere as well. I do not want to detail them. Considering the volume of feeling and opinion on this matter the Select Committee, which was appointed by this House to consider this question, thought that, if there was an exchange of views, it was possible to understand what the arguments of the High Court were on each of these questions. The High Court are the body most interested in the proper administration of justice. The Bill seems to have secured their approval, so that it was for them to facilitate the work of the Select Committee. I submit, Sir, that this was not done and the Select Committee was therefore obliged to consider the Bill without the valuable information which could have been given by the High Court. The High Court, no doubt, deputed the Registrar. Sir, the Registrar could only bring figures and possibly certain definite views expressed by the Judges. The expressed opinion of the Judges would probably undergo a revision when the Select Committee put their point of view to them. The difficulty arose because the High Court would not help us.

There was a Memorandum prepared by the High Court Vakils' Association, the premier association of its kind in Travancore. They expressed themselves clearly against most of the provisions of the Bill

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and they gave elaborate reasons so that the best thing to test the accuracy, the correctness of these opinions would have been to put points to the High Court Judges and to get explanations, amplifications and corrections on them. If that was done the Select Committee would have been able to do its duties properly. I give one or two examples. I may mention that the enhancement of small cause jurisdiction of the Munsiffs was a debatable point. The Law's Delays Commissioner admitted that there was a large volume of opinion against it. The Vakils' Memorandum examined the figures and said that the small cause jurisdiction of the Munsiffs should not be enhanced. They also quoted a dictum from a judgement of Mr. Justice Taliath that the "the power of revision of the High Court was quite inadequate to combat the danger of summary power arbitararily exercised by the Munsiffs". With regard to the jurisdiction over the original suits, the Vakils' Memorandum pointed out that only 282 suits of the value of over 2,000 rupees were filed every year, of which only 60 were over Rs. 5,000. Considering the circumstances that the number of original suits above a certain value was so small, the Memorandum said that ordinarily a District Judge or an additional Judge would get only two cases a month. Considering the importance of the body which gave this information and considering also the strong opinion expressed in various platforms and in this House, we thought that if there was any strong point in the suggestions made by the High Court, we should consider them carefully.

I also wish to mention in this connection that the Select Committee was not able to record proper findings and to make a proper report, so that, this House has been deprived of the benefit which the Select Committe could have given if facilities were offered. Now, we find that the Select Committee's opinion was forwarded to the High Court, and in the opening sentence of the Memorandum the High Court say that the Select Committee turned down some of the Clauses of this Bill. Why did the Select Committee turn down the Clauses? Because the Judges would not come and give us their views. There is no Legislature in any part of the world where instead of the Select Committee, the opinion of the High Court is adopted. The High Court considered the report of the Law's Delays Commissioner. A Bill was drafted accordingly and introduced into this House by the Law Member. The High Court are now furnishing further directions for the Law Member to follow.

Making the law, is the business of this House and of the Select Committee which it appoints. The business of the High Court is to interpret the law and to decide cases. I subscribe to the view that there must be judicial independence. But that is in regard to the decision of cases. If this House wants to interfere with the action of the judiciary in the control and disposal of cases, I certainly think the High Court must allow that.

RAO SAHIB MAHAKAVI S. PARAMESVARA AIYAR (*Nominated*): May I know whether there is any instance in which a Judge of the High Court has been asked to appear before the Select Committee?

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SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): Where? In Travancore?

RAO SAHIB MAHAKAVI S. PARAMESVARA AIYAR (*Nominated*): In Travancore.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum-Urban*): Sir, precedents there cannot be in this, because for years and years together the Chief Justice of the High Court was an honourable member of the Legislative Council. The question of comparative prestige does not arise. Afterwards there were not many legislative enactments in which we had to seek the opinion of the High Court as in the case of this Bill. I may point out to Mr. Ulloor that in the House of Lords there was a debate touching this matter. Two years ago, in December 1934, the point arose in the House of Lords between the Lord Chancellor and the Lord Chief Justice. It is interesting to note that Lord Hewart, that champion of judicial independence, did not question the right of the Lords to interest themselves in the working of the courts. His objections to the Supreme Court Amendment Bill was that the Lord Chancellor moved the second reading of the Bill without showing him the draft. Here, Sir, such a complaint cannot be levelled against the Legislature. The Select Committee desired to consult the High Court and invited the Judges. But the Judges refused to come and give their opinions. They declined the chances of an open dignified discussion. The High Court are the party most interested in working down the arrears, but they would not afford the necessary facilities for testing the correctness of their recommendations. The learned Lord Chief Justice did not refuse to represent his views. On the other hand his complaint was that it was done behind his back. It was laid down that while the Legislature cannot interfere in the actual decision of cases, the procedure of courts, the way in which the business of the court is conducted, is a matter which comes within the right of every Legislature. This House might very well remember that year after year, at the time of the budget discussion, we have been giving suggestions for the proper conduct of the Judicial Department including the High Court and the High Court were taking our suggestions into consideration. In this case it is not a question of a Judge appearing before the Select Committee as though he was a witness in the technical sense. The Select Committee desired to obtain the views of the High Court in order to discharge its duties efficiently. The High Court would not respond. Now, the House will realise what has happened. Instead of the Select Committee considering the views of the High Court, that tribunal has sat in judgment over the decisions of the Select Committee. The process of legislation has been violated so that if this House proceeds further with this Bill, it would mean that instead of the Select Committee's Report the High Court's recommendations have to be depended upon. So far as the general business of the Court is concerned, I have already stated that we have a right to interfere The Government are above the High Court in the iradministrative capacity and they will have to issue a direction to the High Court to help the Select Committee. I submit

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this respectfully for the consideration of the House. If this is the case no Select Committee would be able to do any work. To-morrow the Select Committee may invite the Darbar Physician or the Chief Engineer. Those officers may follow the example of the High Court. The Superintendent of Archaeology and the Anchal Superintendent will follow suit. Rule 35, Clause 4, says distinctly that the Select Committee may call persons before it and ascertain their views to see that laws are properly passed after understanding all the facts. No exemption is made in the case of any officer and no exemption exists in the case of the Judges of the High Court. It is quite wrong on the part of any officer to refuse to come.

MR N E. VARUGHESE (*Tiruvalla I*): May I know whether the High Court have sent a reply?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban.*): Yes. The Ag. Chief Justice replied to the effect that they should have nothing to do with matters of legislation.

But, Sir, the High Court were prepared to express their views on the Agricultural Relief Bill and other measures, before this House. It is the Memorandum which they have sent to Government on the Civil Courts Bill, which had been printed and circulated by Government among the members of this House. It is that Memorandum which this House is asked to consider. I maintain, Sir, that in these circumstances, the ground alleged by the learned Ag. Chief Justice for refusing to comply with the Select Committee's invitation, is clearly unsustainable.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Is it not a contempt of the privileges of this House?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): If I were in England and if I were speaking in the House of Commons, I should have immediately answered that it was a contempt; but, here though the rule is enacted there is no sanction attached to it. I considered whether any action could be taken under the Criminal Law, when persons refuse to attend the meeting of the Select Committee to which they were asked to come. But there are difficult questions connected with it, as for example, whether a letter sent by the Chairman of the Select Committee desiring the attendance of an officer amounts to the act of a public servant.

PRESIDENT The House is not considering the sanction imposed on the High Court.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I shall drop that line of argument. I may submit for the consideration of the House that in order to see that work is done properly, in order to give proper facilities to the Select Committee to do its work, the learned Ag. Chief Justice or any other Judge of the High Court could have given suggestions, which could have been examined by the Select Committee. But, the Committee was denied the chance of doing that.

I object to the procedure now proposed to be followed by the House.

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MR. P. C. KURIYAN (*Kottayam I*): When the Honourable High Court replied that they would not send one of the Honourable Judges of the High Court, did the President of the Select Committee report the matter to the Dewan?

MR. SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I did not, because I did not want to drag the Dewan in this matter, especially since I knew that it would come up before this House.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Was it brought to the notice of the President of the Assembly?

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): I do not know whether I shall be justified in disclosing what happened as a consequence of the reply of the High Court.

PRESIDENT: It is for the honourable member to regulate his own method of debate.

SADASYA TILAKA T. K. VELU PILLAI (*Trivandrum—Urban*): Therefore, for the protection of the rights of this House, I suggest that this Bill may be sent back to the Select Committee so that the views of the High Court may be once more examined. With these words I move that the Bill be recommitted.

MR. A. THANU PILLAI (*Trivandrum-Rural*): Is there any guarantee that, if the Bill was recommitted, the High Court Judges would attend the Select Committee?

MR. S. J. NAIR (*Nedumangad*): I second the motion made by the honourable member Mr. T. K. Velu Pillai. Sir, when the Select Committee sent up an invitation to the Chief Justice of the High Court, and requested him to be present at the Select Committee meeting and to help the Committee with his suggestions and views on this Bill, or at least to send one of his colleagues to the meeting, he was not good enough, kind enough, courteous enough, to accede to our request, while, as a matter of fact, under Standing Order No. 35(4), we were entitled to have their assistance. Meanwhile, at the instance of their Honours the Judges of the High Court, their views on this Bill have been printed in the shape of a Memorandum and circulated to the members of this House. If their Honours, as they have stated in their reply to our invitation, really thought that they have nothing to do with the Legislature, I do not see why they should have thought it fit or necessary to give us this Memorandum.

Sir, they say in the first paragraph of their Memorandum—

> "....the unsatisfactory condition of the pendency of cases will continue and will become more acute in course of time. The only other alternative is for the Government to appoint more officers to the various grades of Courts."

Even if we appoint one Munsiff for each pakuthi and a District Judge for each taluk, even if we go on multiplying the number of Judges in the High Court, the question of law's delays will not be solved in this State unless the fundamental mistake in the matter of recruitment to the judiciary is rectified. Sir, judicial officers must never be recruited on the principle of communal representation. Having adopted the principle of communal represtation in the matter of recruitment in the judiciary, the merit, ability and efficiency of the judiciary have

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considerably deteriorated in recent times. It is high time that communal considerations are done away with in the matter of recruitments of judicial officers in the State. With these words, I support the motion for the recommittal of the Bill to the former Select Committee.

MR. P C. KURIYAN (*Kottayam I*): Sir, I also oppose the motion, and I do so for some weighty reasons. First of all, Mr. Velu Pillai did not answer the question put to him by Mr. Thanu Pillai. Mr. Thanu Pillai asked whether there was any guarantee that, if the Bill was recommitted, the Chief Justice or any of the other Judges of the High Court would attend the meeting of the Select Committee. That is a question on which none of us can give a definite assurance. Therefore, no useful purpose would be served by our recommitting the Bill to the Select Committee.

Secondly, when the High Court refused to accede to the invitation extended to them by the Select Committee, the President of the Select Committee should have addressed the Government on the matter. That has not been done. In that respect, they have failed in their duty. They have not done all that they could have done in the matter. We could have known whether after all it would be possible to get a Judge of the High Court to sit at the Select Committe.

PRESIDENT: It is nobody's case that the Judges of the High Court were asked to sit with the members of the Select Committee.

MR. P. C. KURIYAN (*Kottayam I*): Further, the honourable High Court has furnished us with a memorandum on the Civil Courts Powers Bill. Their views we have in that memorandum. There is therefore no need now to examine any of the Judges of the High Court on the matter. The House can deal with the Bill straightway.

With these words, I oppose the motion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, the views of the High Court have been printed and circulated to the members of this House. If the House really thinks that any useful purpose would be served by the Bill being recommitted, I have no objection whatsoever. But I must make it absolutely clear that I do not agree with certain observations made by some of the honourable members in support of the proposal. That apart, if the House thinks that any useful purpose would be served by the Bill being recommitted, certainly Government have no objection.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I oppose this motion. So far as I have been able to understand, my friend Mr. Velu Pillai has made this motion in the hope that it would be possible for the Select Committee to get the Chief Justice or one of other Judges of the High Court to attend the meeting of the Select Committee when this Bill is discussed there. I do not think that would be possible at all, especially since we have been given copies of the Memorandum of the High Court on this Bill. Now, having gone through the Memorandum, I fail to see what purpose would be served by the Select Committee discussing this Memorandum in the presence of a Judge of the

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[Mr. A. Thanu Pillai.]

High Court. This Memorandum has been in our hands, and everyone of us must have read it. For my part, I do not think any useful purpose would be served by the Bill being recommitted.

RAO SAHIB MAHAKAVI S. PARAMESVARA AIYAR (*Nominated*): I also rise to oppose the motion. It was argued that one of the Judges of the High Court should be present at the meeting of the Select Committee when this Bill is being considered. Even assuming, for argument's sake, that one of the Judges of the High Court will be present at a future sitting of the Select Committee, and that it will be possible for the Select Committee to persuade that Judge to change his views on the Bill, where is the guarantee that the other Judges of the High Court will also change their views accordingly? Therefore, absolutely no purpose will thus be served by one of the Judges attending any meeting of the Select Committee.

Further, all that the High Court have to say on this Bill is now before us in this Memorandum, and we have simply to proceed with the consideration of the various provisions of the Bill, together with the views of the High Court expresed in their Memorandum.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Sir, I rise to oppose the motion for the recommittal of the Bill, but I do it with some reservations. It will be seen, from the original Bill as compared or contrasted with the Bill as it has emerged from the Select Committee, that the parties concerned-whoever they may be—I am not casting any reflection on any particular individual-have lost their temper at one stage or another. It is stated that a request was made to the High Court that one of the Judges should be pleased to attend the meetings of the Select Committee and give the Committee the benefit of his suggestions and views, and that, somehow or other, that request was turned down, and out of a spirit of mischief, as it were.....

PRESIDENT: Order, order.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): The result is that some of the important provisions that found a place in the original Bill have been left out. The Select Committee have particularly marked out the High Court Judges; that is clear from their Report. Because, one of the objects in bringing a measure like this was to give some relief to the High Court where, during the last many years, arrears have been accumulating. We find that in the Bill as it has been revised by the Select Committee, the provisions intended to give the High Court the much-needed relief, are conspicuously absent. Therefore, it is clear that at some stage or other the parties concerned have lost their temper.

The measure has now been placed before us for our consideration and the Memorandum containing the views of the High Court is also before us. Why should the Bill be recommitted and allowed to hang fire any more? The Memorandum, it is seen, has been published by their Honours, two Chief Justices of the High Court. At page 11 of the Memorandum, it is stated:

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"Judged by any test, the position at the present day is one of extreme gravity and urgency."

Sir, the matter being so very urgent it is not at all proper that this House should recommit the Bill for the deliberation of another Select Committee and waste more time over it. Sir, let us forget the past. Let us make the best out of a bad bargain. I would submit that in order to get the benefit of the weighty advice and valuable assistance of the High Court, one of the Judges of the High Court or the Chief Justice, might be co-opted as a member of this House for the consideration of this Bill so that he would give us the advice that we stand in need of. With these observations, I oppose the motion.

MR. N. E. VARUGHESE (*Tiruvalla I*): Sir, I also oppose the motion. It might be said that the High Court were not correct in refusing to comply with the requisition of the Select Committee. My opinion is that the High Court had sufficient reasons for not complying with that requisition. The High Court must be above all controversies. The Judges of the High Court are to expound and interpret the laws of the land as passed by this Legislature. If they happen to take part in the proceedings for passing enactments they will not be able to interpret law independently. Therefore I do not think there can be any criticism against the High Court in refusing the requisition of the Select Committee. They have given a Memorandum giving their views. It is open to the members to read that Memorandum and come to a decision.

If the motion for recommittal is passed we shall only revert to the previous position. The High Court are not likely to change their views. But there is urgent necessity for clearing arrears in all the courts. So the sooner we pass this Bill, the better.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): Sir I oppose the motion for recommittal for the simple reason that we members of the Legislature are experts in the art of legislation, whereas the Judges are merely critics of the laws passed by us. As members of the House, who are lawyers practising in the courts will remember, statutes passed by the Legislature are sometimes criticised by the court as defective. That shows that they are always occupying the position of critics. We are more like doctors; they are merely undertakers.

PRESIDENT: The honourable member may perhaps diagnose the cause.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): I mean legislation itself. That shows that it is not always an advantage to have Judges sitting with us when we are actually taking up legislation. Not only in India but also in England Judges are always finding fault with the wording of the statutes passed by the Legislatures. If we drag them in here also they will be mere destructive critics. Therefore the best thing is to keep them where they are and let us ourselves go on with this business because as I said we are experts in legislation.

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PRESIDENT: Before the discussion proceeds further, I think I may mention to the House that according to parliamentary and legislative procedure, there is no objection to a Select Committee requesting the Chief Justice or any Judge to be present at and to help, the Select Committee with their advice and guidance in matters appertaining to legislation. There is no objection to that. Therefore, the discussion need not hereafter range round the question of any privilege on the one side or any refusal on the other side. The debate may be continued on the merits of the motion as apart from these matters. In other words, if the Select Committee of this House or of the other House desires the attendance of the Chief Justice or any Judge for the purpose of helping them or guiding them in the course of their deliberations, there is no objection to the Judges attending.

Does any honourable member wish to address the House? (*No member rose in his seat*).

The question that the Travancore Civil Courts Powers (Amendment) Bill be recommitted to the Select Committee was then put t vote and carried.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, before we pass on to the next business I have to make another motion on this Bill. One member of the Select Committee, Mr. P. K. Narayana Pillai, is not able to attend it. I would therefore propose that Mr. Thanu Pillai be added.

MR. K. R. ELENKATH (*Kalkulam I*): Has Mr. Narayana Pillai sent in his resignation or expressed his inability to attend?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): No, he has not. I would make the motion that Mr. Thanu Pillai be *added* to the Select Committee.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second the motion.

The motion was put to vote and carried.

[At this stage the Deputy President took the Chair].

THE TRAVANCORE IDENTIFICATION OF PRISONERS BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I rise to introduce a Bill to authorise the taking of measurements and photographs of convicts and others entitled "The Travancore Identification of Prisoners Bill" and beg to move that the Bill be read in the Assembly.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second the motion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I shall now briefly explain the principles of the Bill. The object of this Bill is to provide legal authority for the taking of photographs, finger impressions, foot-prints and measurements of persons

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